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UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF OREGON

In re

Dustin Cory Mayfield
Kayla Sherine Mayfield,

Debtors.

**DUSTIN CORY MAYFIELD and DENISE
CARROL JOHNSON,**

Plaintiffs,

v.

PAYPAL, INC.,

Defendant.

Case No. 15-34792-rld13

Adv. Proc. No.

COMPLAINT

Willful Automatic Stay Violation
(11 U.S.C. § 362(k))

1.

INTRODUCTION

After receiving electronic notice that a user filed bankruptcy, Paypal does not maintain (or chooses not to follow) procedures to stop demanding payment on pre-petition debt.

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2.

JURISDICTION

The United States District Court for the District of Oregon has jurisdiction of this action pursuant to 28 U.S.C. § 1334 because plaintiffs' automatic stay claims arise under Title 11.

3.

The United States Bankruptcy Court for the District of Oregon has jurisdiction of this action pursuant to 28 U.S.C. § 157 and LR 2100-1 because plaintiffs' claims arise in their bankruptcy cases (Dustin Mayfield, number 15-34792-rld13) (Denise Johnson, 15-62456-tmr13), filed under Chapter 13 of Title 11 in this United States Bankruptcy Court for the District of Oregon.

4.

NATURE OF CLAIMS

Plaintiffs' automatic stay claims are core proceedings under 28 U.S.C. § 157(b)(2) (*see Gruntz v. County of Los Angeles (In re Gruntz)*, 202 F.3d 1074, 1081 (9th Cir. 2000); *Johnston Env'tl Corp. v. Knight (In re Goodman)*, 991 F.2d 613, 617 (9th Cir. 1993)) and plaintiffs consent to entry of final orders and judgments by the bankruptcy judge in this adversary proceeding.

5.

THE PARTIES

Plaintiff Mrs. Denise Johnson is an individual living in Cottage Grove, Oregon who filed for bankruptcy protection under Chapter 13 of Title 11 on July 20, 2015.

6.

Plaintiff Mr. Dustin Mayfield is an individual living in Redmond, Oregon who filed for bankruptcy protection under Chapter 13 of Title 11 on October 13, 2015.

7.

Defendant Paypal, Inc. ("Paypal") was listed as an unsecured creditor in plaintiffs' bankruptcy schedules.

8.

Paypal is regularly listed in consumer cases under Title 11 and is familiar with the rules governing bankruptcy.

9.

Paypal is one of the largest internet payment companies in the world with over 150 million users.

10.

Paypal's payment systems transfer hundreds of billions of dollars each year.

11.

As of the date of this complaint, Paypal and its related parent companies and subsidiaries have a net worth of nearly \$50 billion.

12.

Venue is proper in this district because plaintiffs reside here, Paypal regularly attempts to collect debt from users living here, and a substantial part of the acts, events, and/or omissions giving rise to this controversy took place in this district.

13.

This complaint's allegations are based on personal knowledge as to plaintiffs' own conduct and are made on information and belief as to the acts of others.

14.

FACTUAL ALLEGATIONS RELEVANT TO MRS. JOHNSON

On July 20, 2015, Mrs. Johnson filed for bankruptcy protection under Chapter 13 of Title 11. Prior to the commencement of Mrs. Johnson's bankruptcy case, she owed an unsecured debt to Paypal.

15.

On or around July 21, 2015, Paypal received notice of the automatic stay in Mrs. Johnson's case from the bankruptcy noticing center.

16.

Paypal also received verbal notice of the automatic stay and that Mrs. Johnson was represented by an attorney and wished to be left alone.

17.

After receiving actual notice of the automatic stay, Paypal intentionally harassed Mrs. Johnson for no legitimate reason in writing and over the phone in an attempt to collect its pre-petition debt from her.

18.

Paypal's conduct as alleged above violated the automatic stay, including and not limited to 11 U.S.C. § 362(a)(6).

19.

As a direct and proximate result of Paypal's conduct as alleged in this complaint, Mrs. Johnson suffered severe ongoing emotional harm and stress consistent with collector harassment to be proved at trial.

20.

FACTUAL ALLEGATIONS RELEVANT TO MR. MAYFIELD

On October 14, 2015, Mr. Mayfield filed for bankruptcy protection under Chapter 13 of Title 11. Prior to the commencement of Mr. Mayfield's bankruptcy case, he owed an unsecured debt to Paypal.

21.

On or around October 15, 2015, Paypal received notice of the automatic stay in Mr. Mayfield's case from the bankruptcy noticing center.

22.

After receiving actual notice of the automatic stay, Paypal intentionally harassed Mr. Mayfield for no legitimate reason in writing in an attempt to collect its pre-petition debt from him.

23.

Paypal's conduct as alleged above violated the automatic stay, including and not limited to 11 U.S.C. § 362(a)(6).

24.

As a direct and proximate result of Paypal's conduct as alleged in this complaint, Mr. Mayfield suffered severe ongoing emotional harm and stress consistent with collector harassment to be proved at trial.

25.

PUNITIVE DAMAGES

After receiving electronic notices that its users have filed bankruptcy, Paypal does not maintain (or chooses not to follow) procedures to stop demanding payment on pre-petition debt.

26.

Paypal's harassment of plaintiffs as alleged in this complaint constituted a malicious, wanton, and oppressive violation of plaintiffs' right to be free from unwanted creditor communications during the pendency of the automatic stay in their chapter 13 bankruptcy cases.

27.

Paypal's willful systematic ongoing violation of the automatic stay and disregard for the bankruptcy rules as alleged in this complaint stood to give Paypal an unfair advantage over other unsecured creditors that chose to follow the law.

28.

Paypal's blatant disregard for the bankruptcy rules is shocking and outrageous. Paypal's conduct as alleged in this complaint constituted extraordinary transgressions of socially tolerable behavior based on the social standards in plaintiffs' communities because Paypal's conduct constituted a deliberate and arrogant defiance of the fundamental rules governing bankruptcy.

29.

Paypal should pay punitive damages in accordance to the harm it caused plaintiffs, in an amount that will make it profitable for Paypal to finally implement and follow procedures to avoid violating the bankruptcy rules in the future.

30.

CAUSE OF ACTION

CLAIM ONE

(Willful Violation of the Automatic Stay – Damages)

Plaintiffs incorporate the above allegations by reference.

31.

Paypal's conduct as alleged in this complaint willfully violated the automatic stay in plaintiffs' bankruptcy cases, including and not limited to 11 U.S.C. § 362(a)(6), because Paypal knew of the automatic stay, and its intentional conduct as alleged above violated the automatic stay.

32.

Paypal's violation of the automatic stay as alleged above was "willful" as that term is defined in the Ninth Circuit because Paypal's conduct was intentional, Paypal had prior actual knowledge of the automatic stay, Paypal's repeated refusal to leave plaintiffs alone was unreasonable, Paypal knew plaintiffs were represented by an attorney, Paypal knew plaintiffs had no interest in reaffirmation or voluntary payments, and any alleged mistake of law was not a defense.

33.

Plaintiffs were injured as a result of Paypal's willful violations, and so are entitled to compensation for their actual damages, and punitive damages, pursuant to 11 U.S.C. § 362(k).

34.

CLAIM TWO

(Willful Violation of the Automatic Stay – Attorney Fees and Costs)

Plaintiffs incorporate the above allegations by reference.

35.

As a direct result of Paypal's willful automatic stay violations, the law firm of Olsen Daines PC is entitled to an award reimbursing it for its reasonable attorney fees and costs, pursuant to 11 U.S.C. § 362(k).

WHEREFORE, after a stipulation or determination that Paypal's conduct as alleged in this complaint willfully violated the automatic stay, plaintiffs pray for relief as follows:

- A. An award of compensation for actual damages in favor of Dustin Mayfield against Paypal, Inc.;
- B. An award of punitive damages in favor of Dustin Mayfield against Paypal, Inc.;
- C. An award of compensation for actual damages in favor of Denise Johnson against Paypal, Inc.;
- D. An award of punitive damages in favor of Denise Johnson against Paypal, Inc.;
- E. An award of reasonable attorney fees and costs directly to Olsen Daines PC against Paypal, Inc.; and
- F. For other equitable relief this Court may determine is fair and just.

DATED: December 10, 2015

RESPECTFULLY FILED,

/s/ Michael Fuller

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